

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

MERCK & CO., INC., and
MSD TECHNOLOGY, L.P.

Plaintiffs,

v.

UNIVERSAL DRUGSTORE LTD., d/b/a
UNIVERSAL DRUGSTORE.COM

Defendants.

Civil Action No.

05 CV 3698 (DC)

ECF CASE – Electronically Filed

**CONDITIONAL ORDER OF DISMISSAL
UNDER RULE 41(a)(1)(II) FED R. CIV. P BETWEEN
MERCK & CO., INC. AND MSD TECHNOLOGY, L.P.
AND UNIVERSAL DRUGSTORE LTD.**

Counsel for plaintiffs, on behalf of the parties, having notified the Court that the parties have reached an agreement to settle this action, and do not object to the issuance of this order, it is hereby:

ORDERED that this action be conditionally dismissed without prejudice and without costs; provided, however, that within eight (8) months of the date of this Order, counsel for plaintiffs may apply by letter for restoration of the action to the active calendar of the Court in the event that by such time, the terms of the settlement have not been fully satisfied. Upon such notification, the Court shall promptly reinstate the action to its active docket, and the parties shall be directed to appear before the Court, without the necessity of additional process, to schedule remaining pre-trial proceedings to enforce the settlement. This Order shall be deemed a


final discontinuance of the action with prejudice in the event that counsel for plaintiffs does not request restoration of the case to the active calendar within such period of time.

The parties shall each bear their own costs, disbursements and attorneys' fees.

The Clerk of the Court is directed to close this case.

SO ORDERED.

Dated: New York, New York
October 27, 2006



The Honorable Denny Chin
United States District Judge

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